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09/811,226	03/16/2001	Matthew F. Hillman	41023.P002	3905

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SCHWABE, WILLIAMSON & WYATT, P.C.  
PACWEST CENTER, SUITES 1600-1900  
1211 SW FIFTH AVENUE  
PORTLAND, OR 97204

EXAMINER
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DINH, KHANH Q

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 10/04/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/811,226

Applicant(s)

HILLMAN ET AL.

Examiner

Khanh Dinh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-54 are presented for examination.

#### ***Claim Objections***

2. Claim 29 is objected to because of the following informalities: There seems to be an typo error in "clients accesses" (on line 3 of claim 29). For examination purpose, Examiner assumes "*clients accesses*" to be " "***clients' accesses***".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 2151

4. Claims 1, 2, 3, 5, 6, 7, 9-11, 13-15, 21-23, 29-31, 36-38, 43 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Schultz et al. (hereafter Shcultz), U.S. pat. No.6,453,339.

As to claim 1, Schultz discloses a method comprising:

each of a plurality of directory servers non-exclusively engaging a first plurality of servers to serve as master servers (40 fig.3 can be a multiple servers) for hosting one or more application services, and a second plurality of servers to serve as slave servers (42 fig.3) for facilitating clients (18 and 20 fig.3) accesses to the hosted one or more application services (processing clients' requests for contents, see abstract, fig.3, col.5 line 51 to col.6 line 23).

the directory servers (40 fig.3) receiving requests from clients to access a selected one or selected ones of said one or more application services (see col.6 lines 24-49).

and the directory servers selecting and assigning selected ones of their non-exclusively engaged master servers (40 fig.3) to host said accessed application service or services as well as selecting and assigning selected ones of their engaged slave servers (42 fig.3) to facilitate said clients to access said hosted application service or services [master server checking to see if the request for information storing in the repository (22 fig.3), see col.6 line 50 to col.7 line 23).

As to claim 2, Schultz discloses at least some of the master and slave servers are

Art Unit: 2151

engaged to host application service or services, and facilitate clients accesses for multiple ones of said directory servers, and the directory servers perform said selections and assignments of master and slave servers to host application service or services (assigning appropriate servers to process clients' requests, see fig.4, col.11 line 7 to col.12 line 62) and facilitate accesses to the hosted application service or services based on a plurality of operational metrics that directly or indirectly convey the master and slave servers ability to further host additional instantiation of an application service or additional application service, and facilitate clients accesses, in view of the hosting and access facilitating respectively already undertaken by the non-exclusively engaged master and slave servers (see col.13 lines 7-64).

As to claim 3, Schultz discloses the directory servers periodically polling (scheduling tasks to servers) their non-exclusively engaged master and slave servers for information related to said operational metrics the directory servers employed to select and assign master and slave servers to host one or more application services and facilitate accesses to the one or more hosted application services (see fig.2, 3, col.6 line 4 to col.7 line 23).

As to claim 5, Schultz discloses in a directory server, a method comprising:

contacting a first plurality of other servers to non-exclusively engage said first plurality of other servers to serve as master servers (master servers 40 fig.3) for hosting one or more application services and contacting a second plurality of other servers to

Art Unit: 2151

non-exclusively engage said second plurality of other servers to serve as slave servers (42 fig.3) for facilitating clients accesses to one or more hosted application services (processing clients' requests for contents, see abstract, fig.3, col.5 line 51 to col.6 line 23).

receiving requests from clients (18 and 20 fig.3) to access a selected one or selected ones of said one or more hosted application services and selecting and assigning selected ones of said non-exclusively engaged master servers (40 fig.3) to host said one or more accessed application services as well as selecting and assigning selected ones of said non-exclusively engaged slave servers to facilitate said clients (18 and 20 fig.3) to access said one or more hosted application services [master server checking to see if the request for information storing in the repository (22 fig.3), see col.6 line 50 to col.7 line 23).

Claims 6 and 7 are rejected for the same reasons set forth in claims 2 and 3 respectively.

Claims 9-11 are rejected for the same reasons set forth in claims 5-7 respectively.

As to claim 13, Schultz discloses in a master server, a method comprising:

consenting to non-exclusive engagements to serve as a master server (40 fig.3) for hosting one or more application services for a plurality of directory servers

Art Unit: 2151

(processing clients' requests for contents, see abstract, fig.3, col.5 line 51 to col.6 line 23).

receiving instructions from the plurality of directory servers to host a selected one or selected ones of said one or more hosted application services and hosting said selected one or ones of said one or more hosted application services accordingly [master server checking to see if the request for information storing in the repository (22 fig.3), see col.6 line 50 to col.7 line 23).

Claims 14 and 15 are rejected for the same reasons set forth in claims 2 and 3 respectively.

Claims 21-23 are rejected for the same reasons set forth in claims 13-15 respectively.

As to claim 29, Schultz discloses in a slave server, a method comprising:

consenting to non-exclusive engagements to serve as a slave server (42 fig.3) for facilitating clients' accesses to one or more hosted application services for a plurality of directory servers (40 fig.3) (processing clients' requests for contents, see abstract, fig.3, col.5 line 51 to col.6 line 23).

receiving instructions from the plurality of directory servers (40 fig.3) to facilitate accesses by clients (18 and 20 fig.3) to a selected one or selected ones of said one or more hosted application services and facilitating accesses by clients to said selected one or ones of said one or more hosted application services accordingly [master server checking to see if the request for information storing in the repository (22 fig.3), see

Art Unit: 2151

col.6 line 50 to col.7 line 23].

As to claim 30, Schultz discloses responding to periodically polling by said directory servers for information related to operational metrics employed by said directory servers to select and assign slave servers to facilitate clients accesses to one or more hosted application services (assigning appropriate servers to process clients' requests, see fig.4, col.11 line 7 to col.12 line 62)

As to claim 31, Schultz discloses interacting with a plurality of master servers to facilitate accesses by clients to one or more application services hosted by said master servers (see fig.4, col.11 line 7 to col.12 line 62).

Claims 36-38 are rejected for the same reasons set forth in claims 29-31 respectively.

As to claims 43 and 49, Schultz discloses in a client device, a method comprising:

requesting a directory server (40 fig.3) for access to a hosted application service (processing clients' requests for contents, see abstract, fig.3, col.5 line 51 to col.6 line 23).

receiving identification of a slave server (42 fig.3) from the directory server (40 fig.3) to access said hosted application service through said identified slave server and accessing said hosted application service hosted through said identified slave server accordingly [directory server checking to see if the request for information storing in the



Art Unit: 2151

repository (22 fig.3), see col.6 line 50 to col.7 line 23].

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4, 8, 12, 16-20, 24-28, 32-35, 39-42, 44, 46-48 and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz in view of Kikinis et al. (hereafter Kikinis), U.S. pat. No.6,055,566.

As to claim 4, Schultz further discloses at least said clients are coupled to said directory and slave servers through a public network (connecting through the Internet to get information from communication channels, see col.3 line 19 to col.4 line 51). Schultz

Art Unit: 2151

does not specifically disclose hosting one or more application services include a packet based talk radio system and its hosted multi-party talk radio shows, with said clients comprising hosts, listeners and callers of said hosted multi-party talk radio shows.

However, Kikinis in the same network environment discloses hosting one or more application services include a packet based talk radio system and its hosted multi-party talk radio shows, with said clients comprising hosts, listeners and callers of said hosted multi-party talk radio shows (using media sources presenting as radio stations to provide information to users, see fig.1, col.3 line 17 to col.4 line 35). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Kikinis' teachings into the computer system of Schultz to delivery information on the Internet because it would have enabled users to obtain data information from a variety of media sources for public access in the Internet.

Claims 8, 12 and 16 are rejected for the same reasons set forth in claim 4.

As to claims 17 and 18, Schultz's teachings still applied as in claim 4 above. Schultz does not specifically disclose receiving and mixing received audio streams and sending the audio streams to generate a mix audio stream and sending to a plurality of callers of a hosted multi-party talk radio show through one or more slave servers through which said callers access said hosted multi-party talk radio show. However, Kikinis in the same network environment discloses receiving and mixing received audio streams and sending the audio streams to generate a mix audio stream and sending to a plurality of

Art Unit: 2151

callers of a hosted multi-party talk radio show through one or more slave servers through which said callers access said hosted multi-party talk radio show (using media sources presenting as radio stations to provide information to users, see fig.1, col.3 line 17 to col.4 line 35 and col.5 line 66 to col.6 line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Kikinis' teachings into the computer system of Schultz to delivery information on the Internet because it would have enabled users to obtain data information from a variety of media sources for public access in the Internet.

As to claim 19, Schultz's teachings still applied as in claim 4 above. Schultz does not specifically disclose sending a first audio stream received through a first slave server from a first caller to a second caller through a second slave server, and sending a second audio stream received through said second slave server from said second caller to said first caller. However, Kikinis in the same network environment discloses sending a first audio stream received through a first slave server from a first caller to a second caller through a second slave server, and sending a second audio stream received through said second slave server from said second caller to said first caller (using media sources presenting as radio stations to provide information to users on the Internet, see fig.1, col.3 line 17 to col.4 line 35 and col.5 line 66 to col.6 line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Kikinis' teachings into the computer system of Schultz to

Art Unit: 2151

delivery information on the Internet because it would have enabled users to obtain data information from a variety of media sources for public access in the Internet.

As to claim 20, Schultz discloses first and second slave servers are one of the same slave server (42 fig.3) (see fig.3, col.6 lines 3-49).

Claims 24-28 are rejected for the same reasons set forth in claims 16-20 respectively.

Claims 32-35 are rejected for the same reasons set forth in claims 4 and 25-27 respectively.

Claims 39-42 are rejected for the same reasons set forth in claims 32-35 respectively.

Claims 44 and 46-48 are rejected for the same reasons set forth in claims 39 and 40-42 respectively.

As to claim 45, Schultz's teachings still applied as in claim 4 above. Schultz does not specifically disclose providing control information to a master server hosting said first multi-party talk radio show, said client device being a host of said first hosted multi-party talk radio show. However, Kikinis in the same network environment discloses providing control information to a master server hosting said first multi-party talk radio show, said client device being a host of said first hosted multi-party talk radio show (using media sources presenting as radio stations to provide control information to users on the Internet, see fig.1, col.3 line 17 to col.4 line 35 and col.5 line 66 to col.6

Art Unit: 2151

line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Kikinis' teachings into the computer system of Schultz to delivery information on the Internet because it would have enabled users to obtain data information from a variety of media sources for public access in the Internet.

Claims 50-54 are rejected for the same reasons set forth in claims 44-48 respectively.

***Other prior art cited***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Marquette et al, US pat. No.6,499,053.
- b. Kawaguchi et al, US pat. No.6,738,801.
- c. Poisson et al, US pat. No.6,701,358.

**Conclusion**

8. Claims 1-54 are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (703) 308-6687. The fax phone number for this group is (703) 872-9306.

*A shortened statutory period for reply is set to expire THREE months from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U. S. C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.



Khanh Dinh  
Patent Examiner  
Art Unit 2151  
9/28/2004